

CITY OF WEST LAFAYETTE
COMMON COUNCIL
PRE-COUNCIL MINUTES
SEPTEMBER 3, 2015

The Common Council of the City of West Lafayette, Indiana, met in the Multi-Purpose Room at the Morton Community Center on September 3, 2015, at the hour of 4:30 p.m.

Mayor Dennis called the meeting to order and presided.

Present: Bunder, Burch, DeBoer, Dietrich, Hunt, and Thomas.

Absent: Keen

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, IT Director Alexander, Public Works Director Buck, Facilities Director Clark, Parks Superintendent Fawley, Human Resources Director Foster, Fire Chief Heath, WWTU Director Henderson, Deputy Police Chief Leroux, Street Commissioner Payne, and Director of Development Poole.

SPECIAL REPORTS:

Councilor Hunt noted that Global Fest is on September 5, and Mayor Dennis noted that the naturalization ceremony is on September 4.

UNFINISHED BUSINESS:

Ordinance No. 23-15 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (Sagamore Commons, LLC.) (OR to GB) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 23-15 by title only. He noted that Councilors Dietrich and Bunder had requested additional information on this ordinance.

There was no discussion.

Ordinance No. 25-15 An Ordinance Requesting An Additional Appropriation And Reduction To The 2015 Budget (Prepared by the Clerk-Treasurer) PUBLIC HEARING

Mayor Dennis read Ordinance No. 25-15 by title only.

There was no discussion.

Ordinance No. 26-15 An Ordinance Setting The 2016 City Budget And Setting The 2016 Tax Levy On Property And Tax Rate (Prepared by the Clerk-Treasurer) PUBLIC HEARING ONLY

Mayor Dennis read Ordinance No. 26-15 by title only.

There was no discussion.

Ordinance No. 27-15 An Ordinance To Fix The Salaries Of Appointed Officers, Employees, And Members Of The Police And Fire Departments Of The City Of West Lafayette, Indiana, For The Year 2016. (Submitted by Mayor John Dennis)

Mayor Dennis read Ordinance No. 27-15 by title only.

There was no discussion.

Ordinance No. 28-15 An Ordinance To Fix The 2016 Wastewater Treatment Utility Salary Schedule As Submitted By The Board Of Public Works And Safety For Approval By The Common Council Of The City Of West Lafayette, Indiana (Presented by the Board of Public Works and Safety)

Mayor Dennis read Ordinance No. 28-15 by title only.

There was no discussion.

Ordinance No. 29-15 An Ordinance To Set The Salaries Of The Elected Officials, City Of West Lafayette, Indiana, For The Year 2016 (Prepared by the Clerk-Treasurer)

Mayor Dennis read Ordinance No. 29-15 by title only.

There was no discussion.

NEW BUSINESS

Ordinance No. 30-15 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (ZAC, LLC) (NB to R3W) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 30-15 by title only.

Councilor Hunt commented that she does not like the recommendation of denial by the APC staff.

Dan Teder (Reiling Teder & Schrier, LLC), representing the petitioner, stated that it received what he considers a weak denial. The Commission voted 8 "yes" to 3 "no."

Councilor Hunt stated that the narrative is not very happy. She stated that one of the reasons we annexed there is so we could control the appearance and what goes there. She stated that she is concerned and needs a rationale on why she should vote for it.

Mr. Teder stated that there is a commitment that includes increasing the green space, lessening the height limitation, less lot coverage, and a set-back on the south side. He stated that if we did not have this, there would be substantially more units that could be built there. This plan is for no more than 200 units. He stated that it should be kept in mind that this is tied to the Citation Homes piece on the north side of Cumberland Avenue, which is zoned R3. He explained that they want to move the R3 from the north to the south, and move the commercial from the south to the north. He stated that this makes sense as it creates a larger 60-acre commercial tract on the north with commitment. The piece on the south, also with commitment, would be next to Wake Robin. It would be residential next to residential. He stated that there were surveys done by two marketing analysis companies, and they determined that there is 91% occupancy in West Lafayette. They also determined that The Lodge and The Cottages on Lindberg, which are the competition for this site, are 95% occupied. Mr. Teder stated that, in his opinion, there is not an occupancy problem. When looking at Purdue University, there are approximately 6,000 out of the 38,000 students that, when everything else could be filled, are looking for units. He stated that what we need is less than 10%, which is what we think is

reasonable and economically feasible, for this particular site. He stated that this site is 2.3 miles from Purdue, which is the closest site to Purdue of this size that is not owned by Purdue and can be built on. He stated that it will be cottage-style apartments that look like single-family homes, and will have every amenity known to mankind. He stated that what international and out-of-state students are demanding better and higher-quality units. There will be both graduate and undergraduate students. The units will be rented both by the bed and by the unit. This will allow for both families and roommate situations, where the roommate is only responsible for the bed. He stated that he feels this is appropriate for this area.

Councilor Hunt stated that graduate students have spoken here several times, and they tend to live in Lafayette. She stated that she is concerned that the fact that it is 2.3 miles away still means either a bus or driving and parking stickers. She stated that she would like to see the occupancy statistics.

Mr. Teder stated that they do not have statistics, but they talked to manager at The Cottages on Lindberg. The Cottages currently has no full apartments available to rent. They have 30 available beds open in the four- and five-bedroom units, making the current occupancy 90%. He stated that his opinion is that occupancy is not the issue. He explained that Purdue wants to expand the Research Park and bring in a lot of people. He stated that a shuttle will run to both Purdue and the Research Park, and he believes that those types of people will want to live there as well. He stated that there are probably some units that are below 91%, and some are definitely above. He stated that his opinion is that it goes to management and amenities. It does not go to location. He stated that the petitioner is a large family-owned business which manages a large amount of real estate and know what they are doing. They are willing to spend \$25 million in this community to give us something attractive.

Councilor DeBoer stated that McCormick Place Apartments filed for bankruptcy in April. He asked if that is not right there, and what would make this different from McCormick.

Mr. Teder responded that the difference was that the local owners sold it to a group in California. That group decided to sell Tenants in Common (TIC) interest in the apartments, so they had an investment. They did not want to manage the apartments, and they sold the TICs to make money. He stated that the occupancy for McCormick Place for 2015 is 86%.

Councilor DeBoer stated that he did not know about the TICs. He stated that his biggest trepidation about this project is the parking that will be required. He stated that he is a big fan of development around this area because it allows people to walk around and allows an urban life. If development out there causes big influx traffic that we already do not want to deal with, we will need to accommodate that.

Mr. Teder confirmed for Councilor DeBoer that there will be a shuttle. He stated that there is only so much parking in West Lafayette, and when people cannot park they put the car somewhere else and walk or take a bus. He stated that he does not believe there is a parking problem in that respect. He stated that when the Fuse building went in, there were concerns from Hills and Dales about parking issues in the subdivision. However, what happened is that there are no parking issues and the people from Hills and Dales are using the Fuse. He stated that everybody has embraced it and it has been a wonderful thing, and he thinks that there is a lot of trepidation about things that do not apply.

Councilor Burch asked how the proposed facility will be accessed, and asked if it is only off of Cumberland Avenue.

Mr. Teder responded that this is only the zoning stage. After this would be the subdivision stage that includes Police, Fire, and drainage. At this point it shows one entrance off of Cumberland. He stated that he believes that Police, Fire, and APC will require two entrances.

Councilor Burch asked if any of the renters would go through Wake Robin.

Mr. Teder stated that he cannot say that there will be none, but he does not see why people would take the extra time when there are other entrances.

Councilor Bunder asked City Attorney Burns to explain the legal impact of a commitment, and who enforces it.

City Attorney Burns responded that a commitment has the force of law as long as it exists, and once approved it will exist until there is a petition to the APC and a public hearing that would modify it. He stated that it is fully enforceable by the City and the County. The only possible weakness in that system, which is part of the State law, is that there is the ability to go back to the APC and ask to make a change. There is a public hearing requirement, and we would be notified of that.

Councilor Bunder asked if the commitment comes back to Council if there is a change requested.

City Attorney Burns responded that it does not come back to Council. At that point the procedure is all at the APC, and our input would be at the public hearing. We would not have the ultimate vote on it, but we would have the input.

Councilor Bunder stated that his experience is that the APC would be an easier sell than the West Lafayette Council regarding a change to commitments. He stated that our fear is that down the road, Company A will sell to Company B in California, and Company B will go to the APC to argue for changing the commitment. He stated that this is the challenge.

City Attorney Burns confirmed for Councilor Hunt that the commitment is still in effect with a change of ownership. He stated that it is fully binding until changed by an affirmative vote by the APC after a public hearing.

Councilor Dietrich asked City Attorney Burns to compare and contrast a commitment to a covenant.

City Attorney Burns stated that a commitment is a lot stronger as a covenant can be changed by the actual homeowners in a homeowners association. There is no governmental involvement. He stated that if we are talking about a one-owner piece of property then that one owner would have the ability to change convenance. He confirmed for Councilor Dietrich that the commitment is a more legal process, as opposed to a documentation statement.

Mr. Teder stated that he agrees with what City Attorney Burns said about commitments, but added that during the building plan process, the Engineering and Development Departments will look at the commitment while looking at the subdivision and zoning ordinances. They will have to abide by all of the terms of that before getting a building permit. He stated that at that point, once it is built, there is nothing to change without razing the site and starting over. He stated that they have spent a lot of time with West Lafayette on doing this versus doing a planned development, and the consensus was that a commitment would give protection to the City and give the look that was wanted.

Councilor Thomas stated that he has friends that are “mom and pop landlords,” which own small units on campus. He stated that every time there is an issue that comes to Council about new apartments, these landlords wonder why. They cannot compete with the newer rentals with amenities, but the draw is that they are campus and tenants can walk. He stated that these landlords would probably have an issue with the statistics that Mr. Teder mentioned today about occupancy.

Mr. Teder stated that he has two market-analysis people. One is nationwide and one is more regional. They both said that the occupancy in West Lafayette is around 91% to 92%. He stated that he thinks that some of the older houses that are campus do not have a problem with occupancy, but a problem with how much they can charge for rent because they do not want to rebuild or put in amenities. He stated that it is the marketplace. He stated that there is such a small area that is not owned by Purdue and not in New Chauncey. He stated that the landlords may complain that they do not get the rents they want, but the value of the properties is going up substantially.

Mayor Dennis stated that students are coming to campus with more money than they ever had, and they have some serious demands.

Mr. Teder stated that there are students from out of state and internationally who are coming in with exotic cars and a lot of money, and they will not rent an older house on campus without amenities. They are willing to pay \$2,000 per month for something.

Steve Schreckengast (3315 Shrewsbury Drive, president of Citation Homes, Inc.) asked the Council to keep in mind the big picture. He stated that Citation Homes owns the 10 acres on the north side of Cumberland. Virtually all of the frontage on the north side of Cumberland is owned by Citation, and that is zoned multi-family right now. He stated that he is in the process of acquiring the balance of that acreage, which is zoned GB. Part of the zoning that received the 11 yes, 0 no vote was that it was appropriate to take that R3 and change it to GB. He stated that he cannot do that unless he can move the multi-family across the street. He stated that there are two reasons for that. One is that he will not give up the R3 zoning on those 10 acres, which would eliminate all the frontage on Cumberland and pretty much kill a development on that northwest corner. The second thing is that he does not want to own 80 acres of commercial zoning on that corner. He stated that is way too much and APC agrees. There would be 60 acres of GB zoning on the northwest corner, and 20 more acres of NB. There is nothing you can do in NB that you cannot do in GB. He stated that the big picture is that with the 60 acres of GB zoning they would give up the 10 acres, which could probably hold approximately 150 units of multi-family on it without any restrictions. It would move that to the south side, and put residential with residential. It would put everything in place to really start working on that corner. He stated that this is not something he just started thinking about; he acquired that ground in 2008, well before the road was ever put in. He stated that he did not ask to be annexed into the City, but he did not oppose it. He stated that he has already put in a restriction in the covenant for the Wake Robin subdivision waiving the owner's rights to remonstrate against annexation. He stated that he is glad to be a part of West Lafayette.

Mr. Teder stated that looking at HUD's census portal, it says that West Lafayette is 92.7% occupied.

Councilor Hunt asked if that is the City or the zip code.

Councilor DeBoer stated that it is the City, but we need to look out there in that specific area to get a better reading on actually how occupied it is. He stated that while he trusts the numbers to a degree, he would like to have better statistics.

Mr. Teder stated that he is willing to share the market analysis that was done, and stated that he could email that.

Councilor DeBoer stated that there is a significant part of the student rental report that goes into the area out there that he can provide.

There was no further discussion.

Ordinance No. 31-15 To Amend Certain Portions Of The Unified Zoning Ordinance Of Tippecanoe County, Indiana, Designating The Time When The Same Shall Take Effect (Citation Homes, Inc.) (R3 to GB) (Submitted by Area Plan Commission)

Mayor Dennis read Ordinance No. 31-15 by title only. He asked for confirmation that this is a continuation of Ordinance No. 30-15.

Mr. Teder stated that it is, and said that he thinks he has given all the information he can, but is happy to answer any other questions.

Mr. Bunder asked for an explanation of the connection for the GB on the north side and the multi-family on the south side.

Mr. Teder responded that Citation Homes owns the acreage that he wants to rezone on the north side. Citation Homes owns the acreage on the south side. There is a binding offer to purchase with ZAC, LLC, which is Zimmerman Development Company, for the south side, subject to the rezone. On the north side, Mr. Schreckengast, with Lynn Cason, owns all of that acreage. Part of it, closer to US 231, is straight GB. To the north there are 30 areas that have a commitment. The acreage that they want to flip-flop from R3 to GB also has that same commitment. It is going to limit the ability to put in things that are of concern. He stated that the handout he provided shows a conceptual plan. He stated that Mr. Schreckengast has said that he wants to make it look like Carmel. Mr. Teder stated that Franciscan Hospital is coming in across the street, plus on the perimeter there will be buildings for doctors. To the south of Cumberland, on the east side of US 231, is the church. Then, they are hoping, these cottage-style apartments, and the 60 acres of GB to do a beautiful development for the City. He stated that they are looking at a hotel and those types of things to put in there; they are not looking at burger doodles for this site.

Councilor Burch asked for confirmation that these two ordinances are related.

Mr. Teder responded that they are related in the fact that Mr. Schreckengast is the underlying owner of both.

Councilor Burch asked if the homeowners in Wake Robin may not want commercial in that area.

Mr. Schreckengast stated that they want a park.

Mr. Teder stated that some of the homeowners to the south spoke against this at the APC meeting. One of the individuals was with the homeowners association, and they sent out a survey where some of the people responded "no." He stated that the APC asked how many

people responded to the survey, and the answer was less than 20%. There are 300 or 400 people there, and less than 20% responded. The majority of that 20% said "no." One person who lives in the corner of Cumberland and US 231 wrote a letter of support, as he does not want the noise, smell, and lighting of commercial there. Mr. Teder stated that he would suggest that either the other 80% of the people who did not speak are the silent majority who do not care or they are supportive.

Councilor Burch asked for confirmation that Mr. Schreckengast could, if the rental units are not approved, build something commercial.

Mr. Schreckengast stated that the two zonings are tied. We will hear the first one, the 20-acre zoning first. He stated that if that is denied, then he will withdraw the rezoning of the 10 acres and leave the multi-family there. He stated that it will pretty much kill commercial development there for a while. He stated that he does not want to give up the 10 acres of multi-family unless he knows that he can move it across the street. He stated that he does not want to have 80 acres of business zoning out there, which would be the result of allowing the zoning to go through on the 10 acres. He stated that they control virtually all of the frontage on Cumberland.

There was no further discussion.

Ordinance No. 32-15 An Ordinance Amending Various Section Of The West Lafayette City Code To Comply With Second Class City Status (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 32-15 by title only.

Councilor DeBoer thanked City Attorney Burns for getting this together. He stated that there is text on Page 12 that has language already incorporated that is in the next piece of legislation, regarding the parking permits.

City Attorney Burns confirmed this, and stated that it would have to change depending on what the Council did with the other one.

Councilor DeBoer asked if they were to reject the next piece of legislation how it would affect this one.

City Attorney Burns stated that it is a two-read piece of legislation, so there could be a sense from the Council on how the parking fine legislation is going and it could be dropped by amendment if needed. He explained that they were trying to get it done all at once time, but however it goes for that one, this one will be changed accordingly. He stated that there are two spots where it would have to be deleted if it is deleted from the parking ordinance.

There was no further discussion.

Ordinance No. 33-15 An Ordinance To Establish A Parking Fine Surcharge And A Parking Permit Surcharge (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 33-15 by title only.

Councilor Bunder stated that as President of the City Council, he does not want to give this up to the Board of Works. He does not want to have to explain the difference to people between the Board of Works and City Council. He stated that if we want to increase the permit fees, we

can talk about that, but he is the person who will have people coming to him. He stated that if he has that responsibility, then he wants to have the responsibility to set the rate too.

Deputy Police Chief Leroux stated that there was never any intent to circumvent, or take any control from the Council. It was a logistics operation that if things change, we have Board of Works meetings every week as opposed to Council meetings. He stated that the Police Department has no objections to the Council having it, so there are no objections to an amendment being made.

Councilor Hunt stated that she agrees with Councilor Bunder, and she has concerns about it. She does not want to turn anything over to anybody. She stated that she does not see rationale here for raising the fees, though she knows that we probably need to do the surcharge. She stated that there was a lot of discussion with supporting statistics when the parking fines were raised last time. At that time there were a lot more parking tickets because Purdue had raised their fees and students were wise enough to know that the parking fines were cheaper in West Lafayette, so they parking illegally here. She stated that she understands that the surcharge is for a computerized system.

Deputy Chief Leroux stated that the surcharge is related to an agreement with NuPark, who is going to be our license plate reader company. If a ticket is issued, we are charged a \$2 fee.

Councilor DeBoer stated that we doubled the fees a few years back, and asked where that money went. He asked why we cannot spend that money on the processing fee.

Deputy Chief Leroux stated that the fees did not double, and they were fines. These are truly fees associated with the system that we are going to be running. As far as why we cannot take it out of fines that we are already collecting, he does not know that there is a law that says we cannot, but it would just come out of the General Fund money at that point.

City Attorney Burns stated that from an administrative or government standpoint on why we would charge it, is that there is a surcharge of \$2 for someone who wants to get a neighborhood license, or something of that nature, because there is a cost associated with that of more than \$2. The other thing is that with a parking ticket, there is pretty much the same situation, expect you have to decide if that \$2 should be imposed who has admitted or been convicted of the parking ticket, or if the taxpayer should pay the \$2. Those are the two choices; otherwise the City would take on that \$2 because that is part of our cost of using the system.

There was no further discussion.

Ordinance No. 34-15 A Fire Protection Ordinance Providing For Payment Of Fire Hydrant Rental Costs By Indiana American Water Company Ratepayers (Sponsored by Mayor Dennis)

Mayor Dennis read Ordinance No. 34-15 by title only.

Councilor Dietrich asked that this either be moved up to the old business, before we talk about the budget, or move the budget down to vote for it. There is a significant \$300,016 in the budget that he assumes this will usurp, and would impact one way or the other. He stated that he thinks we need to decide how we are going to act on this before we vote on the budget.

City Attorney Burns stated that procedurally that can be done unless there is opposition.

Clerk-Treasurer Rhodes noted that there will be no action on the budget at the Council meeting except a public hearing. No changes to the budget can be made then; they would be made at the October meeting. So, it is really not a matter on the agenda.

Councilor Hunt stated that she likes this ordinance. We have been thinking about this for at least eight years. She stated that if she remembers correctly, the original estimate of how much this was costing the City was a quarter of a million dollars. Now she reads that it is \$400,000. She stated that there is the rationale that other cities have the ratepayers pay this, and that there is a poverty clause in there. She stated that she appreciates those factors.

Councilor Burch asked if this is freeing up other tax dollars.

Clerk-Treasurer Rhodes responded yes, and explained that it is freeing up the Economic Income tax dollars. She stated that these hydrant costs were originally paid out of the General Fund, and because of circuit breaker that could no longer be done and we had to use EDIT.

Councilor Burch asked if this money would be used to pay for salaries or to buy new fire trucks.

Fire Chief Heath stated that in 2013 the Fire Department received a SAFER Grant to hire seven additional firefighters, and this will help with that.

There was no further discussion.

Resolution No. 18-15 A Resolution Appropriating Insurance Recovery Received For Damage To City Property (Police and Parks) (Prepared by the Clerk-Treasurer)

Mayor Dennis read Resolution No. 18-15 by title only.

There was no discussion.

Resolution No. 19-15 A Resolution Of The City Of West Lafayette, Indiana Authorizing The Use Of Surplus Bond Proceeds For A Sewage Works Project (Sponsored by Mayor Dennis)

Mayor Dennis read Resolution No. 19-15 by title only.

City Attorney Burns stated that this will be coming back in October if the Council would pull it. He stated that there are bond proceeds left, and the intention stays the same to use those funds to work on the sewer project. He stated that he is requesting that it be pulled to that it can be further coordinated with the State Street project. He stated that we have a mandate to do certain sewer work by 2019, and to avoid tearing up streets that would be changed by the State Street project, the decision has been made to advance the sewer project to be in conjunction with State Street. He stated that there is no particular rush on this and it is a one-read resolution. In October it can be looked at with some other things related to State Street.

Councilor Burch motioned to postpone Resolution No. 19-15 to the October Council meeting. Councilor Dietrich seconded the motion, and the motion passed by voice vote.

There was no further discussion.

Resolution No. 20-15 A Resolution Incorporating Agreement Into Ordinance No. 24-15 By Reference (Sponsored by Mayor Dennis)

Mayor Dennis read Resolution No. 20-15 by title only.

City Attorney Burns stated that Clerk-Treasurer Rhodes wanted to do this for record-keeping purposes. As a resolution the agreement is made a part of the public record.

Councilor Burch asked if this is part of Phase 1 or if this is moving on to Phase 2.

City Attorney Burns stated that it is combined with Phase 2.

There was no further discussion.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment. Mayor Dennis adjourned the meeting, the time being 5:23 p.m.